

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES DANIEL MITCHELL,

Petitioner,

Case No. 1:08cv313

v.

Hon. Robert J. Jonker

PATRICIA L. CARUSO, et al.,

Respondent.

ORDER AND JUDGMENT
APPROVING REPORT AND RECOMMENDATION

The court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties on June 3, 2008. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C). Accordingly,

IT IS ORDERED that the Report and Recommendation of the Magistrate Judge, filed June 3, 2008, is approved and adopted as the opinion of the court.

IT IS ORDERED that Plaintiff's complaint is **DISMISSED** for failure to state a claim under 28 U.S.C. § 1915(e)(2). and 1915A(b), and 42 U.S.C. § 1997e(c).

IT IS ORDERED that dismissal of this action shall count as a strike for purposes of 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED that the Court finds no good faith basis for appeal within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d601, 611 (6th Cir. 1997).

/s/Robert J. Jonker

ROBERT J. JONKER

UNITED STATES DISTRICT JUDGE

Dated: June 24, 2008